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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,302	02/11/2004	Dogulas F. Kelly	23122-1203	3553
7590 Mark J. Schidkraut Kaye Scholer LLP 425 Park Avenue New York, NY 10022-3598				
EXAMINER SAVUSDIPHOL, PAULTEP				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/776,302

Applicant(s)

KELLY ET AL.

Examiner

PAULTEP SAVUSDIPHOL

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Receipt is acknowledged of the amendment, filed on 6/13/2008, which has been entered in the file. Acknowledgment is made to the claim amendments for claims 2, 5, 8, 11 & 14, which overcome the previous claim objections in the Office Action dated 3/17/2008. The objections are therefore withdrawn. Claims 1-28 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1, 3-7 & 9-12** are rejected under 35 U.S.C. 102(e) as being anticipated by **Strayer et al. (US 2004/0054622 A1)**.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding **claim 1**, **Strayer** discloses a method for processing financial transactions, comprising:

receiving information relating to a plurality of electronic payment transactions [0009 & 0113];

categorizing each of said electronic payment transactions by one of a plurality of payment types [0043 & 0114], wherein the payment types comprise at least check payments, debit card payments, and credit card payments [0002-0005, 0014 & 0142];
and

determining a funding amount to be paid to a merchant, for each of said payment types, wherein the funding amount relates to a transaction amount, wherein the transaction amount is based upon at least one of the plurality of electronic payment transactions [0121-0123].

Regarding **claim 3**, **Strayer** discloses the method of claim 1, wherein the funding amount is further based upon an processing amount related to one or more transaction processing fees [0121-0123].

Regarding **claim 4**, **Strayer** discloses the method of claim 1, further comprising:
generating a report identifying the funding provided to the merchant [0035-0036 & 0121-0125].

Regarding **claim 5**, **Strayer** discloses the method of claim 4, wherein the report identifies the electronic payment transactions that transpired prior to a defined period of time [0121-0125].

Regarding **claim 6, Strayer** discloses the method of claim 4, wherein the report is displayed electronically [0035-0039 – *wherein it is disclosed that the system includes a display device and is capable of various operations, one of which is reporting of merchant account activity; therefore an electronic displaying of report information*].

Regarding **claim 7, Strayer** discloses a system for processing financial transactions, comprising:

an interface for receiving information relating to a plurality of electronic payment transactions [0009 & 0113];

a memory device for categorizing each of said electronic payment transactions by one of a plurality of payment types [0036-0043 & 0114], wherein the plurality of payment types comprise at least check payments, debit card payments, and credit card payments [0002-0005, 0014 & 0142]; and

a processor for determining a funding amount to be paid to a merchant, for each of said payment types, wherein the funding amount relates to a transaction amount, wherein the transaction amount is based upon at least one of the plurality of electronic payment transactions [0036-0040 & 0121-0123].

Regarding **claim 9, Strayer** discloses the system of claim 7, wherein the processor further determines the funding amount based upon a processing amount relating to one or more transaction processing fees [0121-0123].

Regarding **claim 10, Strayer** discloses the system of claim 7, further comprising:

an output device for generating a report identifying the funding provided to the merchant [0035-0036 & 0121-0125].

Regarding **claim 11**, **Strayer** discloses the system of claim 10, wherein the report identifies the electronic payment transactions that transpired prior to a defined period of time [0121-0125].

Regarding **claim 12**, **Strayer** discloses the system of claim 10, wherein the report is displayed electronically [0035-0039 – *wherein it is disclosed that the system includes a display device and is capable of various operations, one of which is reporting of merchant account activity; therefore an electronic displaying of report information*].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 2 & 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Strayer et al. (US 2004/0054622 A1)**.

With respect to **claims 2 & 8**, the teachings of **Strayer** have been discussed above.

Strayer is silent regarding the plurality of payment types further comprising at least one of a stored value card, loyalty point redemptions or electronic benefit transfers, as recited in **claims 2 & 8**.

However, **Strayer** teaches the use of systems and methods for processing a variety of transaction types that may be presented to a merchant including credit and

debit cards, corporate and check cards as well as processing checks and other types of non-cash payment instruments, see paragraphs [0002-0005, 0014 & 0142].

Furthermore **Strayer** teaches that it would be beneficial to customers for merchants to accommodate customer preferences by allowing for a variety of payment options. Thus, with a variety of payment options available, it would be beneficial for merchants to have an effective card processing service that would be efficient while controlling expenses related with these payment options, see paragraph [0007]. One skilled in the art would appreciate that stored value cards are but one form of “non-cash” payment instruments that are widely known in the art and can be found, for example, in the form of gift cards or gift certificates for brick-and-mortar stores as well as online retailers. Although stored value cards or loyalty points are not explicitly mentioned, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include such well known “non-cash” payment methods available for consumers as another means for which to carryout transactions.

3. **Claims 13, 15-21, & 23-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Strayer** in view of **Kramer et al. (US 2003/0140007 A1)**.

Regarding **claim 13**, **Strayer** discloses a method for processing financial transactions involving a merchant and consumers, comprising:

receiving information relating to a plurality of electronic payment transactions [0009 & 0113];

categorizing each of said electronic payment transactions by one of a plurality of payment types [0043 & 0114], wherein the plurality of payment types comprises at least check payments, debit card payments, and credit card payments [0002-0005, 0014 & 0142];

identifying one or more categories of electronic payment transactions for which funds are to be transferred from a consumer account and one or more categories of electronic payment transactions for which funds may be transferred from an account associated with a consumer [0043 & 0048-0050];

receiving confirmation respecting the transfer of funds for at least one of electronic payment transactions of the type to be transferred from a consumer account [0098]; and

providing funding to merchant, wherein the amount of said funding relates to the amount of funds for at least one of the electronic payment transactions for which said transfer confirmation is received [0121-0123].

Regarding **claim 15**, **Strayer** discloses the method of claim 13, wherein the amount of funding equals the amount of funds for at least one of the electronic payment transactions for which said transfer confirmation is received and the amount of funds respecting the electronic payment transactions that may be transferred from a consumer account [0121-0123].

Regarding **claim 16**, **Strayer** discloses the method of claim 13, wherein the amount of funding equals the amount of funds for at least one of the electronic payment transactions for which said transfer confirmation is received and the amount of funds

respecting the electronic payment transactions that may be transferred from a consumer account, less an amount relating to one or more transaction fees [0121-0123].

Regarding **claim 17**, **Strayer** discloses the method of claim 13, wherein the received information relates to electronic payment transactions that transpired prior to a defined period of time and is within a predetermined amount of time after said defined period of time [0121-0125].

Regarding **claim 18**, **Strayer** discloses the method of claim 17, further comprising: generating a report identifying the funding provided to the merchant [0035-0036 & 0121-0125].

Regarding **claim 19**, **Strayer** discloses the method of claim 18, wherein the report identifies the electronic payment transactions that transpired prior to said defined period of time [0121-0125].

Regarding **claim 20**, **Strayer** discloses the method of claim 18, wherein the report is displayed electronically [0035-0039 – *wherein it is disclosed that the system includes a display device and is capable of various operations, one of which is reporting of merchant account activity; therefore an electronic displaying of report information*].

Regarding **claim 21**, **Strayer** discloses a system for processing financial transactions involving a merchant and consumers, comprising:

an interface for receiving information relating to a plurality of electronic payment transactions [0009 & 0113]; and

a memory device for categorizing each of said electronic payment transactions by one of a plurality of payment types [0036-0043 & 0114], wherein the plurality of payment types comprise at least check payments, debit card payments, and credit card payments [0002-0005, 0014 & 0142]; and

a processor:

for identifying one or more categories of electronic payment transactions for which funds are to be transferred from a consumer account, and one or more categories of electronic payment transactions for which funds may be transferred from an account associated with a consumer [0043 & 0048-0050],

for receiving confirmation respecting the transfer of funds for at least one of electronic payment transactions of the type wherein funds are to be transferred from a consumer account [0098], and

for providing funding to merchant, wherein the amount of said funding relates to the amount of funds for at least one of the electronic payment transactions for which said transfer confirmation is received and the amount of funds respecting the electronic payment transactions that may be transferred from a consumer account [0121-0123].

Regarding **claim 23, Strayer** discloses the system of claim 21, wherein the processor calculates the amount of funding by totaling the amounts of funds for at least one of the electronic payment transactions for which said transfer confirmation is received and the amount of funds respecting the electronic payment transactions that may be transferred from a consumer account [0121-0123].

Regarding **claim 24, Strayer** discloses the system of claim 21, wherein the processor calculates the amount of funding by totaling the amount of funds for at least one of the electronic payment transactions for which said transfer confirmation is received and the amount of funds respecting the electronic payment transactions that may be transferred from a consumer account, and decrementing an amount relating to one or more transaction fees [0121-0123].

Regarding **claim 25, Strayer** discloses the system of claim 21, wherein the received information relates to electronic payment transactions that transpired prior to a defined period of time and is within a predetermined amount of time after said defined period of time [0121-0125].

Regarding **claim 26, Strayer** discloses the system of claim 25, further comprising: an output device for generating a report identifying the funding provided to the merchant [0035-0036 & 0121-0125].

Regarding **claim 27, Strayer** discloses the system of claim 26, wherein the report includes the electronic payment transactions that transpired prior to said defined period of time [0121-0125].

Regarding **claim 28, Strayer** discloses the system of claim 26, wherein the output device is configured for displaying the report electronically [0035-0039 – *wherein it is disclosed that the system includes a display device and is capable of various operations, one of which is reporting of merchant account activity; therefore an electronic displaying of report information*].

Strayer fails to teach or particularly point out, identifying a cut-off time for providing to a merchant funding relating to said electronic payment transactions, as recited in **claims 13, 15-17, 21 & 23-25**.

Kramer teaches, regarding **claims 13, 15-17, 21 & 23-25**, identifying a cut-off time for providing to a merchant funding relating to said electronic payment transactions [0790, 0796 & 0803].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further employ the features of **Kramer** with the teachings of **Strayer** for the benefit of providing for a more optimal and efficient system by setting deadlines or goals as the standard for all parties involved for future reference and verification.

4. **Claims 14 & 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Strayer** in view of **Kramer**.

With respect to **claims 14 & 22**, the teachings of the combination of **Strayer**, as modified by **Kramer**, have been discussed above.

This combination is silent regarding the plurality of payment types further comprising at least one of a stored value card, loyalty point redemptions or electronic benefit transfers, as recited in **claims 14 & 22**.

However, **Strayer**, as modified by **Kramer**, teaches the use of systems and methods for processing a variety of transaction types that may be presented to a merchant including credit and debit cards, corporate and check cards as well as

processing checks and other types of non-cash payment instruments, see paragraphs [0002-0005, 0014 & 0142]. Furthermore **Strayer**, as modified by **Kramer**, teaches that it would be beneficial to customers for merchants to accommodate customer preferences by allowing for a variety of payment options. Thus, with a variety of payment options available, it would be beneficial for merchants to have an effective card processing service that would be efficient while controlling expenses related with these payment options, see paragraph [0007]. One skilled in the art would appreciate that stored value cards are but one form of "non-cash" payment instruments that are widely known in the art and can be found, for example, in the form of gift cards or gift certificates for brick-and-mortar stores as well as online retailers. Although stored value cards or loyalty points are not explicitly mentioned, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include such well known "non-cash" payment methods available for consumers as another means for which to carryout transactions.

Response to Arguments

Applicant's arguments filed 6/13/2008 have been fully considered but they are not persuasive. Applicant argues, see pages 7-9 of the Arguments/Remarks submitted on 6/13/2008, that **Strayer** fails to teach, in particular, wherein the plurality of payment types comprise at least check payments, debit card payments, and credit card payments. The examiner respectfully disagrees. **Strayer** clearly teaches the ability to accept and process credit and debit card transactions as well as check transactions,

see paragraphs [0002-0005, 0014 & 0142]. The Applicant even concedes that **Strayer** discloses as much, see page 9, lines 4-6 in the Arguments/Remarks submitted on 6/13/2008, which reads "*Strayer mentions that 'in addition to purchase cards (e.g., credit cards and debit cards), other types of non-cash payment instruments (e.g., electronic checks) may be included.' See paragraph 0142*". The Applicant further argues, on page 9, that **Strayer** does not provide any description as to how to implement the system of **Strayer** to handle processing of the combination of check payments, debit card payments, and credit card payments or how to implement the system of **Strayer** to further handle processing at least one of stored value card payments, loyalty points redemptions, or electronic benefits transfers. The examiner can not find in the claims where a limitation for requiring a "description as to how to implement the system...processing...the combination of check...debit...and credit card payments...further...processing at least one of stored value card payments, loyalty points redemptions, or electronic benefits transfers". The claims merely recite a system and method that can process and categorize a plurality of payment types, including check payments, debit card payments, and credit card payments further being able to handle processing at least one of stored value card payments, loyalty points redemptions, or electronic benefits transfers. These are clearly taught by **Strayer** or a combination of **Strayer** and **Kramer**. The claims have been rejected accordingly.

Conclusion

No claims are allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAULTEP SAVUSDIPHOL whose telephone number is (571)270-1301. The examiner can normally be reached on M-F, 8:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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